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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

DUSTIN PAUL MOORE,

Defendant and Appellant.

E066399

(Super.Ct.No. FBA1100147)

OPINION

APPEAL from the Superior Court of San Bernardino County. R. Glenn Yabuno,
Judge. Affirmed.

Richard Schwartzberg, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

A jury found defendant and appellant Dustin Paul Moore guilty of carjacking (Pen. Code, § 215, subd. (a), count 1)¹, robbery (§ 211, counts 2 & 3), and false imprisonment (§ 236, counts 6 & 7). As to each of the counts, the jury found that defendant knew a principal was armed with a firearm during the commission of the offense (former § 12022, subd. (d)), and that he personally used a knife during the commission of each offense (former § 12022, subd. (b)(1)). The jury also found that he had three prior strike convictions. (§§ 1170.12, subds. (a)-(d) & 667, subds. (b)-(i).)² The court imposed a total term of 130 years to life in state prison and ordered defendant to pay various fines and fees.

This court affirmed the convictions on appeal, but remanded for resentencing. (*People v. Moore* (April 2, 2015, E058917) [nonpub. opn.].) The superior court resentenced defendant to 78 years to life. Defendant filed a timely appeal. We affirm.

PROCEDURAL BACKGROUND³

In defendant's first appeal, this court remanded the matter with directions, as follows: "The matter is remanded for the superior court to modify the judgment to impose the firearm enhancements pursuant to section 12022, subdivision (a)(1), rather

¹ All further statutory references will be to the Penal Code unless otherwise noted.

² The trial court dismissed the charges in counts 4 and 5 pursuant to the People's motion.

³ The procedural background is taken from our previous opinion. (*People v. Moore, supra*, E058917.)

than section 12022, subdivision (d). The court must also exercise its discretion and either impose or strike the stayed enhancements. The matter is further remanded for the court to exercise its discretion in determining whether to sentence defendant concurrently or consecutively.”

On remand, the superior court resentenced defendant as follows: on count 1, the court imposed 27 years to life, plus a consecutive term of one year on the former section 12022, subdivision (a)(1) firearm enhancement; on counts 2 and 3, the court imposed consecutive terms of 25 years to life; and on counts 6 and 7, the court imposed concurrent terms of 25 years to life. The court also struck the former section 12022, subdivision (a)(1) firearm enhancements on count 2, 3, 6, and 7. Thus, the court imposed a total term of 78 years to life.

ANALYSIS

Defendant appealed and, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and one potential arguable issue: whether the court’s failure to orally impose fees and fines again at the resentencing hearing requires remand. Counsel has also requested this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, which he has not done. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The order is affirmed.

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HOLLENHORST
J.

We concur:

RAMIREZ
P. J.

McKINSTER
J.